

REMARKS

By this paper, independent claim 14 has been amended. Claims 14-24 remain pending.

In the outstanding final Office action dated September 8, 2003, claims 14-24 were rejected under 35 U.S.C. § 102(e) or in the alternative, under 35 U.S.C. § 103(a) in view of Mathis et al. (6,129,755). In rejecting the claims, the Examiner stated that "MATHIS does not teach a process of deforming the Ni-Ti shape memory stent at or above M_d temperature. However, because a product claim is mainly defined by all of the structural limitations listed in the claim and the MATHIS stent comprises substantially all structural limitations of the stent as claimed in the present application, the claims of the present invention are unpatentable over MATHIS stent."

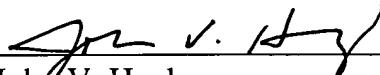
Independent claim 14 has been amended to recite a medical device including a shape memory alloy element being in an austenitic state when in an at least partially deformed configuration. Significantly, the structural limitation of a shape memory alloy element in an austenitic state when in an at least partially deformed configuration is not taught by the Mathis et al. reference. Rather, as indicated by the Examiner, Mathis et al. teaches deforming an NiTi shape element below an M_d temperature. As such, it is believed that claims 14-24 define patentable subject matter.

CONCLUSION

Applicant has attempted to completely respond to the rejections set forth in the outstanding Office action. In view of the above amendments and remarks, Applicant respectfully requests that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

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